

DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS

Amendments to Chapters 12-52.1 and 12-73.1
Hawaii Administrative Rules

Date

1. Section 12-52.1-1, Hawaii Administrative Rules, is amended to read as follows:

"§12-52.1-1 State amendments to 29 CFR 1904. (a) 29 CFR 1904.1(a)(1) is amended to read as follows: (a) Basic requirement. (1) If your company had ten or fewer employees at all times during the last calendar year, you do not need to keep OSHA injury and illness records unless HIOSH, OSHA, or the [bureau of labor and statistics] Bureau of Labor Statistics (BLS) informs you in writing that you must keep records under §1904.37, §1904.41 or §1904.42. However, as required by §1904.39, all employers covered by chapter 396, HRS, Hawaii Occupational Safety and Health Law, must report to HIOSH any workplace incident that results in a fatality or the hospitalization of three or more employees, or property damage in excess of \$25,000.

(b) 29 CFR 1904.2(a)(1) is amended to read as follows: (a) Basic requirement. (1) If your business establishment is classified in a specific low hazard retail, service, finance, insurance or real estate industry listed in appendix a to this subpart b, you do not need to keep OSHA injury and illness records unless the government asks you to keep records under [§1904.3,] §1904.37, §1904.41 or §1904.42. However, all employers must report to HIOSH any workplace incident that results in a fatality or the hospitalization of three or more employees, or property damage in excess of \$25,000 (see §1904.39(a) as amended in subsection (d)).

(c) 29 CFR 1904.29(b)(2) is amended to read as follows: (2) What do I need to do to complete an OSHA 301 Incident Report? You must complete an OSHA 301 Incident Report form, or an equivalent form, for each recordable injury or illness that is required to be entered on the OSHA 300 Log.

[(c)](d) 29 CFR 1904.37(c) is added to read as follows: (c) If you receive an OSHA occupational injury and illness data collection form or any other type of injury and illness survey authorized by HIOSH, you must respond to the survey or request, and return

it to the designated recipient within the specified time limit.

~~[(d)]~~(e) 29 CFR 1904.39(a) is amended to read as follows: (a) Basic requirement. Within eight hours after the death of any employee from a work-related incident, the inpatient hospitalization of three or more employees as a result of a work-related incident, or property damage in excess of \$25,000 as a result of a work-related incident, you must orally report the fatality/multiple hospitalization, or property damage by telephone, (808) 586-9102, or in person at the HIOSH office in Honolulu.

~~[(e)]~~(f) 29 CFR 1904.39(b)(1) is amended to read as follows: (b) Implementation. (1) If the HIOSH office is closed, may I report the incident by leaving a message on HIOSH's answering machine, faxing the area office, or sending an e-mail? When the HIOSH office is closed, the (808) 586-9102 telephone number will allow you to leave a phone message. In order for the message to be considered officially reported, all of the information in 1904.39(b)(2) must be provided on the answering machine message.

~~[(f)]~~(g) 29 CFR 1904 Non-Mandatory Appendix A to Subpart B - Partially Exempt Industries is amended for the duration of the HIOSH Strategic Plan. The establishments that begin with SIC 525 and SIC 80 have been included in the HIOSH Strategic Plan before this standard was established and will continue to be required to maintain the injury and illness log for the duration of HIOSH's Strategic Plan unless the establishment has less than 11 employees. 29 CFR 1904 Non-Mandatory Appendix A to Subpart B - Partially Exempt Industries is amended to read as follows:

Employers are not required to keep OSHA injury and illness records for any establishment classified in the following Standard Industrial Classification (SIC) codes, unless they are asked in writing to do so by OSHA, the Bureau of Labor Statistics (BLS), or a state agency operating under the authority of OSHA or the BLS. All employers, including those partially exempted by reason of company size or industry classification, must report to OSHA any workplace incident that results in a fatality or the hospitalization of three or more employees (see §1904.39).

SIC code	Industry description	SIC code	Industry description
542 ...	Meat and Fish Markets	725 ...	Shoe Repair and Shoeshine Parlors.
544 ...	Candy, Nut, and Confectionery Stores	726 ...	Funeral Service and Crematories.
545 ...	Dairy Product Stores	729 ...	Miscellaneous Personal Services.
546 ...	Retail Bakeries	731 ...	Advertising Services.
549 ...	Miscellaneous Food Stores	732 ...	Credit Reporting and Collection Services.
551 ...	New and Used Car Dealers	733 ...	Mailing, Reproduction, & Stenographic Services.
552 ...	Used Car Dealer	737 ...	Computer & Data Processing Services.
554 ...	Gasoline Service Stations	738 ...	Miscellaneous Business Services.
557 ...	Motorcycle Dealers	764 ...	Reupholstery and Furniture Repair.
56	Apparel and Accessory Stores	78	Motion Picture.
573 ...	Radio, Television, & Computer Stores	791 ...	Dance Studios, Schools and Halls.
58	Eating and Drinking Places	792 ...	Producers, Orchestras, Entertainers.
591 ...	Drug Stores and Proprietary Stores	793 ...	Bowling Centers.
592 ...	Liquor Stores	81	Legal Services.
594 ...	Miscellaneous Shopping Goods Stores	82	Educational Services (schools, colleges, universities and libraries).
599 ...	Retail Stores, Not Elsewhere Classified	832 ...	Individual and Family Services.
60	Depository Institutions (banks & savings institutions)	835 ...	Child Day Care Services.
61	Nondepository	839 ...	Social Services, Not Elsewhere Classified.
62	Security and Commodity Brokers	841 ...	Museums and Art Galleries.
63	Insurance Carriers	86	Membership Organizations.
64	Insurance Agents, Brokers & Services	87	Engineering, Accounting, Research, Management, and Related Services.
653 ...	Real Estate Agents and Managers	899 ...	Services, Not Elsewhere Classified."
654 ...	Title Abstract Offices		
67	Holding and Other Investment Offices		
722 ...	Photographic Studios, Portrait		
723 ...	Beauty Shops		
724 ...	Barber Shops		

[Eff 12/29/01; am] (Auth: HRS
§396-4) (Imp: HRS §396-4)

2. Section 12-73.1-1, Hawaii Administrative Rules, is amended by amending subsection (b) to read as follows:

“(b) Material handling equipment and agricultural tractors used in agriculture shall meet the following requirements.

- (1) Equipment manufactured after October 25, 1976 shall be equipped with roll-over protective structures (ROPS) meeting the minimum performance standards prescribed in subsection [(d)] (e) below.
- (2) Equipment manufactured on or before October 25, 1976, shall be equipped with ROPS that meet the minimum performance standards prescribed in subsections [(d) or] (e) or (f)

below, as applicable, when operated by an employee under any one of these conditions:

- (A) Parallel to and within 3 feet of a slope steeper than 3 feet horizontal to 1 foot vertical; or
 - (B) Within 3 feet of a vertical or nearly vertical drop-off exceeding 1 foot in height; or
 - (C) On any grade exceeding 15 per cent (10 feet horizontal to 1-1/2 feet vertical).
- (3) When ROPS are required by this section, the employer shall:
- (A) Provide each tractor with an operational seatbelt which meets the requirements of this paragraph;
 - (B) Ensure that each employee is trained in the use of and uses the seatbelt when the tractor is on or moving; and
 - (C) Ensure that each employee tightens the seatbelt sufficiently to confine the employee to the protected area provided by the ROPS.
- (4) Each seatbelt shall meet the requirements set forth in SAE Standard J4c, except as noted hereafter. (Copies may be obtained from the Society of Automotive Engineers, 400 Commonwealth Drive, Warrendale, PA 15096).
- (A) Where a suspended seat is used, the seatbelt shall be fastened to the movable portion of the seat to accommodate the ride motion of the operator;
 - (B) The seatbelt anchorage shall be capable of withstanding a static tensile load of 1,000 pounds (453.6 kg) at 45 degrees to the horizontal equally divided between the anchorages. The seat mounting shall be capable of withstanding this load plus a load equal to 4 times the weight of all applicable seat components applied at 45 degrees to the horizontal in a forward and upward direction. In addition, the seat mounting shall be capable of withstanding a 500 pound (226.8 kg) belt load plus 2 times the weight of all applicable seat components both applied at 45 degrees to the horizontal in an upward and rearward direction. Floor and seat deformation is acceptable provided there is no structural failure or release of the

- seat adjusting mechanism or other locking device.
- (C) The seatbelt webbing material shall have a resistance to acids, alkalis, mildew, aging, moisture, and sunlight equal to or better than that of untreated polyester fiber.
- (5) Batteries, fuel tanks, oil reservoirs, and coolant systems shall be constructed and located, or sealed, to minimize the possibility of spillage which may come in contact with the operator in the event of an upset.
- (6) All sharp edges and corners at the operator's station shall be designed to minimize operator injury in the event of an upset.
- (7) Paragraphs (1) and (2) above do not apply to:
- (A) "Low profile" tractors while they are used in orchards, vineyards, or hop yards where the vertical clearance requirements would substantially interfere with normal operations, and while their use is incidental to the work performed;
- (B) "Low profile" tractors while used inside a farm building or greenhouse in which the vertical clearance is insufficient to allow a ROPS equipped tractor to operate, and while their use is incidental to the work performed; and
- (C) Tractors while used with mounted equipment which is incompatible with ROPS (e.g., Mark II seed cutters, Vee-cutters, four-wheel drive sprayers, S75 harvesters, Stubenberg buggies, two and four line planters, and Toft harvesters).
- (8) When ROPS are removed for any reason, they shall be remounted so as to meet the requirements of this subsection."
- [Eff 12/29/01; am]
- (Auth: HRS §396-4) (Imp: HRS §396-4)

3. Material, except source notes, to be repealed is bracketed. New material is underscored.

4. Additions to update source notes to reflect these amendments are not underscored.

5. These amendments to chapters 12-52.1 and 12-73.1, Hawaii Administrative Rules, shall take effect ten days after filing with the Office of the Lieutenant Governor.

I certify that the foregoing are copies of the rules, drafted in the Ramseyer format pursuant to the requirements of section 91-4.1, Hawaii Revised Statutes, which were adopted on _____, and filed with the Office of the Lieutenant Governor.

LEONARD AGOR, DIRECTOR
Department of Labor and
Industrial Relations

APPROVED AS TO FORM:

Deputy Attorney General